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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,550	02/23/2004	Martin Pettesch	UNIV - 45	7762

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EXAMINER
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PATEL, VISHAL A

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/784,550

Applicant(s)

PETTESCH, MARTIN

Examiner

Vishal Patel

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/27/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 8-17 are objected to because of the following informalities: There are two claim 8's, hence the second claim 8 is numbered as 9 and the remaining claims are renumbered as 10-18. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7, line 1, "one of said base section" and "a the other", this language is unclear on how applicant is trying to define that the base section has one of channel or a guide projection and the swivel section has the other of the channel or the guide projection.

4. Claim 17 recites the limitation "said second device" in line 2. There is insufficient antecedent basis for this limitation in the claim. Furthermore the sealing groove having the O-ring is in either the swivel section or the base section not the adaptor.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 1-4, 6-10, 13 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Stephens (US. 964,578).

Stephens illustrates in figure 2 a swivel adaptor assembly comprising a swivel fitting (fitting formed by 11 as showed in figure 2 and 17') and an adaptor (adaptor 14 of figure 2) releasably secured to the upper end of the swivel fitting (releasably secured by threads 21 of figure 2). The swivel fitting includes a swivel section and a base section (17 being the swivel section and 11 being the base section), the swivel section includes the upper end (end that has threads 21) and the base section being secured to the pipe (as seen in figure 2). The swivel section is releasably coupled to the base section (by bolts 25 and balls 23 of figure 2) and wherein the swivel section is rotatable relative to the base section (this is the case because of the balls 23').

The swivel section rotates relative to the base section in response to forces applied to the adaptor which forces are less than the forces required to release the adaptor from securement with the swivel section. The device located between the adaptor and the swivel section for providing a fluid seal there between (gasket 20). A retaining groove formed around at least a portion of the swivel section and retaining means secured with the base section extending in the groove for securing the axial position of the base section relative to the swivel section (retaining groove receiving bolt and ball). The base section include a first side wall with an upward facing first surface that defines one of a guide channel or guide projection and the swivel section includes a second side wall with a downward facing second surface that defines the other of the guide channel or the guide projection (projection 16' that is received in a channel). During operation the retaining means transfers upward forces applied to the adaptor from the swivel

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section to the base section (intended use). The retaining means includes at least two bolts threaded through spaced openings in the base section (bolts 25). The adaptor and the swivel section define tool engaging means for increasing the force required to release the adaptor from securement with the swivel section and for releasing the swivel section from the adaptor (outer peripheral surface of the adaptor ring and the swivel section). The swivel section includes a third upward facing surface (surface contacting gasket 20) and the adaptor includes a third downward facing surface (surface contacting gasket 20).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 5 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens in view of Warren (US. 2,501,639).

Stephens discloses the invention substantially as claimed above but fails to disclose that a second device located between the base section and the swivel section for providing a fluid seal there between. Warren teaches a swivel joint having a swivel section and a base section, a groove placed in the swivel section, a device placed (36) in the groove to provide a seal between the swivel section and the base section. It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the swivel section or the base section of the swivel joint of Stephens to have a groove that retains a second seal device as taught by

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Warren to provide a seal between the base section and the swivel section (column 3, lines 30-32 of Warren).

9. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens.

Stephens discloses the claimed invention except for the swivel fitting made of one metal and the adaptor made of another material. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the swivel fitting be made of a first metal and the adaptor be made of a second metal, since it has been held to be within the general skill of a worker in the art to select a know material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416. Furthermore, Rief provides evidence that a swivel fitting is made of a first material and the adapted ring is made of a second material, which is similar to first material.

10. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens in view of Phillips (US. 2,396,123).

Stephens discloses the invention substantially as claimed above but fails to disclose that the base section includes male or female threads. Phillips teaches that a first member can be attached to a second member by welding or wedging and then welding (figure 1, second member 27 is attached to first member 20, which is considered to be a base section) or a first member having threads to attached a second member (the first member 20a having threads 63 for attaching to another member). It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the base section of Stephens to have threads as taught by Phillips, since having a member fitted into another member by wedging or threads is considered to be art equivalent and to provide a reusable joint (due to threads).

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11. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens in view of Akiyama et al (US. 6,109,660).

Stephens discloses the invention substantially as claimed and further discloses that a thread section is on an inner surface of the swivel section (threads on inner surface of 17') and a thread section is on an outer surface of the adaptor (outer threads on the adaptor) but fails to disclose that the adaptor includes threads at its lower end and swivel section includes threads at its upper end (meaning that the threads of Stephens are reversed). Akiyama teaches a first member having a thread on an internal surface (threads of 2 in figure 1) and a second member having a thread on an external surface (thread of 1 in figure 1). In figure 2, the first member having the thread on an external surface (threads of 2) and the second member having the thread on an internal surface (thread of 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to configure the threads of Stephens to be reversed as taught by Akiyama, since providing threads on an internal surface or an external surface of a member is considered to be art equivalent (see figures 1-2 of Akiyama).

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wilson, Bravo, Dickinson, Hendey, Gleeson and Smith.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is 571-272-7060. The examiner can normally be reached on 6:30am to 8:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VP  
August 4, 2005

A handwritten signature in black ink, appearing to read "Vishal Patel". The signature is stylized with a large, sweeping "V" and a cursive "Patel".

Vishal Patel  
Patent Examiner  
Tech. Center 3600